

HOUSE BILL No. 4597

May 3, 2011, Introduced by Reps. Kurtz, Liss, Lane, Bauer, Heise, Rendon, Wayne Schmidt, Jenkins, Farrington, Zorn, Damrow, Haines, Kowall, Callton, O'Brien, Haveman, Forlini, Lyons, Townsend, Darany, Stapleton, Slavens and Brown and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
by amending section 34b (MCL 400.734b), as amended by 2010 PA 292.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 34b. (1) In addition to the restrictions prescribed in
2 sections 13, 22, and 31, and except as otherwise provided in
3 subsection (2), an adult foster care facility shall not employ or
4 independently contract with an individual who regularly has direct
5 access to or provides direct services to residents of the adult
6 foster care facility if the individual satisfies 1 or more of the
7 following:

8 (a) Has been convicted of a relevant crime described under 42

1 USC 1320a-7(a).

2 (b) Has been convicted of any of the following felonies, an
3 attempt or conspiracy to commit any of those felonies, or any other
4 state or federal crime that is similar to the felonies described in
5 this subdivision, other than a felony for a relevant crime
6 described under 42 USC 1320a-7(a), unless 15 years have lapsed
7 since the individual completed all of the terms and conditions of
8 his or her sentencing, parole, and probation for that conviction
9 prior to the date of application for employment or the date of the
10 execution of the independent contract:

11 (i) A felony that involves the intent to cause death or serious
12 impairment of a body function, that results in death or serious
13 impairment of a body function, that involves the use of force or
14 violence, or that involves the threat of the use of force or
15 violence.

16 (ii) A felony involving cruelty or torture.

17 (iii) A felony under chapter XXA of the Michigan penal code,
18 1931 PA 328, MCL 750.145m to 750.145r.

19 (iv) A felony involving criminal sexual conduct.

20 (v) A felony involving abuse or neglect.

21 (vi) A felony involving the use of a firearm or dangerous
22 weapon.

23 (vii) A felony involving the diversion or adulteration of a
24 prescription drug or other medications.

25 (c) Has been convicted of a felony or an attempt or conspiracy
26 to commit a felony, other than a felony for a relevant crime
27 described under 42 USC 1320a-7(a) or a felony described under

1 subdivision (b), unless 10 years have lapsed since the individual
2 completed all of the terms and conditions of his or her sentencing,
3 parole, and probation for that conviction prior to the date of
4 application for employment or the date of the execution of the
5 independent contract.

6 (d) Has been convicted of any of the following misdemeanors,
7 other than a misdemeanor for a relevant crime described under 42
8 USC 1320a-7(a), or a state or federal crime that is substantially
9 similar to the misdemeanors described in this subdivision, within
10 the 10 years immediately preceding the date of application for
11 employment or the date of the execution of the independent
12 contract:

13 (i) A misdemeanor involving the use of a firearm or dangerous
14 weapon with the intent to injure, the use of a firearm or dangerous
15 weapon that results in a personal injury, or a misdemeanor
16 involving the use of force or violence or the threat of the use of
17 force or violence.

18 (ii) A misdemeanor under chapter XXA of the Michigan penal
19 code, 1931 PA 328, MCL 750.145m to 750.145r.

20 (iii) A misdemeanor involving criminal sexual conduct.

21 (iv) A misdemeanor involving cruelty or torture unless
22 otherwise provided under subdivision (e).

23 (v) A misdemeanor involving abuse or neglect.

24 (e) Has been convicted of any of the following misdemeanors,
25 other than a misdemeanor for a relevant crime described under 42
26 USC 1320a-7(a), or a state or federal crime that is substantially
27 similar to the misdemeanors described in this subdivision, within

1 the 5 years immediately preceding the date of application for
2 employment or the date of the execution of the independent
3 contract:

4 (i) A misdemeanor involving cruelty if committed by an
5 individual who is less than 16 years of age.

6 (ii) A misdemeanor involving home invasion.

7 (iii) A misdemeanor involving embezzlement.

8 (iv) A misdemeanor involving negligent homicide or a violation
9 of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL
10 257.601d.

11 (v) A misdemeanor involving larceny unless otherwise provided
12 under subdivision (g).

13 (vi) A misdemeanor of retail fraud in the second degree unless
14 otherwise provided under subdivision (g).

15 (vii) Any other misdemeanor involving assault, fraud, theft, or
16 the possession or delivery of a controlled substance unless
17 otherwise provided under subdivision (d), (f), or (g).

18 (f) Has been convicted of any of the following misdemeanors,
19 other than a misdemeanor for a relevant crime described under 42
20 USC 1320a-7(a), or a state or federal crime that is substantially
21 similar to the misdemeanors described in this subdivision, within
22 the 3 years immediately preceding the date of application for
23 employment or the date of the execution of the independent
24 contract:

25 (i) A misdemeanor for assault if there was no use of a firearm
26 or dangerous weapon and no intent to commit murder or inflict great
27 bodily injury.

1 (ii) A misdemeanor of retail fraud in the third degree unless
2 otherwise provided under subdivision (g).

3 (iii) A misdemeanor under part 74 of the public health code,
4 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided
5 under subdivision (g).

6 (g) Has been convicted of any of the following misdemeanors,
7 other than a misdemeanor for a relevant crime described under 42
8 USC 1320a-7(a), or a state or federal crime that is substantially
9 similar to the misdemeanors described in this subdivision, within
10 the year immediately preceding the date of application for
11 employment or the date of the execution of the independent
12 contract:

13 (i) A misdemeanor under part 74 of the public health code, 1978
14 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of
15 conviction, is under the age of 18.

16 (ii) A misdemeanor for larceny or retail fraud in the second or
17 third degree if the individual, at the time of conviction, is under
18 the age of 16.

19 (h) Is the subject of an order or disposition under section
20 16b of chapter IX of the code of criminal procedure, 1927 PA 175,
21 MCL 769.16b.

22 (i) Engages in conduct that becomes the subject of a
23 substantiated finding of neglect, abuse, or misappropriation of
24 property by a state or federal agency according to an investigation
25 conducted ~~in accordance with~~ **UNDER** 42 USC 1395i-3 or 1396r, **OR THE**
26 **SUBJECT OF A SUBSTANTIATED FINDING OF ABUSE CLASS I, ABUSE CLASS**
27 **II, NEGLECT CLASS I, OR NEGLECT CLASS II BY A STATE AGENCY**

1 **ACCORDING TO AN INVESTIGATION CONDUCTED UNDER STATE LAW.**

2 (2) Except as otherwise provided in this subsection or
3 subsection (6), an adult foster care facility shall not employ or
4 independently contract with an individual who has direct access to
5 residents until the adult foster care facility or staffing agency
6 has conducted a criminal history check in compliance with this
7 section or has received criminal history record information in
8 compliance with subsections (3) and (11). This subsection and
9 subsection (1) do not apply to an individual who is employed by or
10 under contract to an adult foster care facility before April 1,
11 2006. On or before April 1, 2011, an individual who is exempt under
12 this subsection and who has not been the subject of a criminal
13 history check conducted in compliance with this section shall
14 provide the department of state police a set of fingerprints and
15 the department of state police shall input those fingerprints into
16 the automated fingerprint identification system database
17 established under subsection (14). An individual who is exempt
18 under this subsection is not limited to working within the adult
19 foster care facility with which he or she is employed by or under
20 independent contract with on April 1, 2006 but may transfer to
21 another adult foster care facility, mental health facility, or
22 covered health facility. If an individual who is exempt under this
23 subsection is subsequently convicted of a crime or offense
24 described under subsection (1)(a) to (g) or found to be the subject
25 of a substantiated finding described under subsection (1)(i) or an
26 order or disposition described under subsection (1)(h), or is found
27 to have been convicted of a relevant crime described under 42 USC

1 1320a-7(a), he or she is no longer exempt and shall be terminated
2 from employment or denied employment.

3 (3) An individual who applies for employment either as an
4 employee or as an independent contractor with an adult foster care
5 facility or staffing agency and who has not been the subject of a
6 criminal history check conducted in compliance with this section
7 shall give written consent at the time of application for the
8 department of state police to conduct a criminal history check
9 under this section, along with identification acceptable to the
10 department of state police. If the individual has been the subject
11 of a criminal history check conducted in compliance with this
12 section, the individual shall give written consent at the time of
13 application for the adult foster care facility or staffing agency
14 to obtain the criminal history record information as prescribed in
15 subsection (4) or (5) from the relevant licensing or regulatory
16 department and for the department of state police to conduct a
17 criminal history check under this section if the requirements of
18 subsection (11) are not met and a request to the federal bureau of
19 investigation to make a determination of the existence of any
20 national criminal history pertaining to the individual is
21 necessary, along with identification acceptable to the department
22 of state police. Upon receipt of the written consent to obtain the
23 criminal history record information and identification required
24 under this subsection, the adult foster care facility or staffing
25 agency that has made a good faith offer of employment or an
26 independent contract to the individual shall request the criminal
27 history record information from the relevant licensing or

1 regulatory department and shall make a request regarding that
2 individual to the relevant licensing or regulatory department to
3 conduct a check of all relevant registries in the manner required
4 in subsection (4). If the requirements of subsection (11) are not
5 met and a request to the federal bureau of investigation to make a
6 subsequent determination of the existence of any national criminal
7 history pertaining to the individual is necessary, the adult foster
8 care facility or staffing agency shall proceed in the manner
9 required in subsection (5). A staffing agency that employs an
10 individual who regularly has direct access to or provides direct
11 services to residents under an independent contract with an adult
12 foster care facility shall submit information regarding the
13 criminal history check conducted by the staffing agency to the
14 adult foster care facility that has made a good faith offer of
15 independent contract to that applicant.

16 (4) Upon receipt of the written consent to conduct a criminal
17 history check and identification required under subsection (3), the
18 adult foster care facility or staffing agency that has made a good
19 faith offer of employment or independent contract to the individual
20 shall make a request to the department of state police to conduct a
21 criminal history check on the individual and input the individual's
22 fingerprints into the automated fingerprint identification system
23 database, and shall make a request to the relevant licensing or
24 regulatory department to perform a check of all relevant registries
25 established according to federal and state law and regulations for
26 any substantiated findings of abuse, neglect, or misappropriation
27 of property. The request shall be made in a manner prescribed by

1 the department of state police and the relevant licensing or
2 regulatory department or agency. The adult foster care facility or
3 staffing agency shall make the written consent and identification
4 available to the department of state police and the relevant
5 licensing or regulatory department or agency. If the department of
6 state police or the federal bureau of investigation charges a fee
7 for conducting the criminal history check, the charge shall be paid
8 by or reimbursed by the department. The adult foster care facility
9 or staffing agency shall not seek reimbursement for a charge
10 imposed by the department of state police or the federal bureau of
11 investigation from the individual who is the subject of the
12 criminal history check. The department of state police shall
13 conduct a criminal history check on the individual named in the
14 request. The department of state police shall provide the
15 department with a written report of the criminal history check
16 conducted under this subsection. The report shall contain any
17 criminal history record information on the individual maintained by
18 the department of state police.

19 (5) Upon receipt of the written consent to conduct a criminal
20 history check and identification required under subsection (3), if
21 the individual has applied for employment either as an employee or
22 as an independent contractor with an adult foster care facility or
23 staffing agency, the adult foster care facility or staffing agency
24 that has made a good faith offer of employment or independent
25 contract shall comply with subsection (4) and shall make a request
26 to the department of state police to forward the individual's
27 fingerprints to the federal bureau of investigation. The department

1 of state police shall request the federal bureau of investigation
2 to make a determination of the existence of any national criminal
3 history pertaining to the individual. An individual described in
4 this subsection shall provide the department of state police with a
5 set of fingerprints. The department of state police shall complete
6 the criminal history check under subsection (4) and, except as
7 otherwise provided in this subsection, provide the results of its
8 determination under subsection (4) and the results of the federal
9 bureau of investigation determination to the department within 30
10 days after the request is made. If the requesting adult foster care
11 facility or staffing agency is not a state department or agency and
12 if criminal history record information is disclosed on the written
13 report of the criminal history check or the federal bureau of
14 investigation determination that resulted in a conviction, the
15 department shall notify the adult foster care facility or staffing
16 agency and the individual in writing of the type of crime disclosed
17 on the written report of the criminal history check or the federal
18 bureau of investigation determination without disclosing the
19 details of the crime. The notification shall inform the adult
20 foster care facility or staffing agency and the applicant regarding
21 the appeal process in section 34c and shall include a statement
22 that the individual has a right to appeal the information relied
23 upon by the adult foster care facility or staffing agency in making
24 its decision regarding his or her employment eligibility based on
25 the criminal history check. Any charges imposed by the department
26 of state police or the federal bureau of investigation for
27 conducting a criminal history check or making a determination under

1 this subsection shall be paid in the manner required under
2 subsection (4).

3 (6) If an adult foster care facility determines it necessary
4 to employ or independently contract with an individual before
5 receiving the results of the individual's criminal history check or
6 criminal history record information required under this section,
7 the adult foster care facility may conditionally employ the
8 individual if all of the following apply:

9 (a) The adult foster care facility requests the criminal
10 history check or criminal history record information required under
11 this section, upon conditionally employing the individual.

12 (b) The individual signs a written statement indicating all of
13 the following:

14 (i) That he or she has not been convicted of 1 or more of the
15 crimes that are described in subsection (1)(a) to (g) within the
16 applicable time period prescribed by subsection (1)(a) to (g).

17 (ii) That he or she is not the subject of an order or
18 disposition described in subsection (1)(h).

19 (iii) That he or she has not been the subject of a substantiated
20 finding as described in subsection (1)(i).

21 (iv) The individual agrees that, if the information in the
22 criminal history check conducted under this section does not
23 confirm the individual's statement under subparagraphs (i) to (iii),
24 his or her employment will be terminated by the adult foster care
25 facility as required under subsection (1) unless and until the
26 individual can prove that the information is incorrect.

27 (v) That he or she understands the conditions described in

1 subparagraphs (i) to (iv) that result in the termination of his or
2 her employment and that those conditions are good cause for
3 termination.

4 (c) Except as otherwise provided in this subdivision, the
5 adult foster care facility does not permit the individual to have
6 regular direct access to or provide direct services to residents in
7 the adult foster care facility without supervision until the
8 criminal history check or criminal history record information is
9 obtained and the individual is eligible for that employment. If
10 required under this subdivision, the adult foster care facility
11 shall provide on-site supervision of an individual in the facility
12 on a conditional basis under this subsection by an individual who
13 has undergone a criminal history check conducted in compliance with
14 this section. An adult foster care facility may permit an
15 individual in the facility on a conditional basis under this
16 subsection to have regular direct access to or provide direct
17 services to residents in the adult foster care facility without
18 supervision if all of the following conditions are met:

19 (i) The adult foster care facility, at its own expense and
20 before the individual has direct access to or provides direct
21 services to residents of the facility, conducts a search of public
22 records on that individual through the internet criminal history
23 access tool maintained by the department of state police and the
24 results of that search do not uncover any information that would
25 indicate that the individual is not eligible to have regular direct
26 access to or provide direct services to residents under this
27 section.

1 (ii) Before the individual has direct access to or provides
2 direct services to residents of the adult foster care facility, the
3 individual signs a statement in writing that he or she has resided
4 in this state without interruption for at least the immediately
5 preceding 12-month period.

6 (iii) If applicable, the individual provides to the department
7 of state police a set of fingerprints on or before the expiration
8 of 10 business days following the date the individual was
9 conditionally employed under this subsection.

10 (7) The department shall develop and distribute the model form
11 for the statements required under subsection (6) (b) and (c). The
12 department shall make the model form available to adult foster care
13 facilities upon request at no charge.

14 (8) If an individual is conditionally employed under
15 subsection (6), and the information under subsection (3) or report
16 under subsection (4) or (5), if applicable, does not confirm the
17 individual's statement under subsection (6) (b) (i) to (iii), the adult
18 foster care facility shall terminate the individual's employment as
19 required by subsection (1).

20 (9) An individual who knowingly provides false information
21 regarding his or her identity, criminal convictions, or
22 substantiated findings on a statement described in subsection
23 (6) (b) (i) to (iii) is guilty of a misdemeanor punishable by
24 imprisonment for not more than 93 days or a fine of not more than
25 \$500.00, or both.

26 (10) An adult foster care facility or staffing agency shall
27 use criminal history record information obtained under subsection

1 (3), (4), or (5) only for the purpose of evaluating an individual's
2 qualifications for employment in the position for which he or she
3 has applied and for the purposes of subsections (6) and (8). An
4 adult foster care facility or staffing agency or an employee of the
5 adult foster care facility or staffing agency shall not disclose
6 criminal history record information obtained under this section to
7 a person who is not directly involved in evaluating the
8 individual's qualifications for employment or independent contract.
9 An individual who knowingly uses or disseminates the criminal
10 history record information obtained under subsection (3), (4), or
11 (5) in violation of this subsection is guilty of a misdemeanor
12 punishable by imprisonment for not more than 93 days or a fine of
13 not more than \$1,000.00, or both. Except for a knowing or
14 intentional release of false information, an adult foster care
15 facility or staffing agency has no liability in connection with a
16 criminal history check conducted in compliance with this section or
17 the release of criminal history record information under this
18 subsection.

19 (11) Upon consent of an individual as required in subsection
20 (3) and upon request from an adult foster care facility or staffing
21 agency that has made a good faith offer of employment or an
22 independent contract to the individual, the relevant licensing or
23 regulatory department shall review the criminal history record
24 information, if any, and notify the requesting adult foster care
25 facility or staffing agency of the information in the manner
26 prescribed in subsection (4) or (5). Until the federal bureau of
27 investigation implements an automatic notification system similar

1 to the system required of the state police under subsection (14)
2 and federal regulations allow the federal criminal record to be
3 used for subsequent authorized uses, as determined in an order
4 issued by the department, an adult foster care facility or staffing
5 agency may rely on the criminal history record information provided
6 by the relevant licensing or regulatory department under this
7 subsection and a request to the federal bureau of investigation to
8 make a subsequent determination of the existence of any national
9 criminal history pertaining to the individual is not necessary if
10 all of the following requirements are met:

11 (a) The criminal history check was conducted during the
12 immediately preceding 12-month period.

13 (b) The individual has been continuously employed by an adult
14 foster care facility, mental health facility, or covered health
15 facility, or the staffing agency since the criminal history check
16 was conducted in compliance with this section or meets the
17 continuous employment requirement of this subdivision other than
18 being on layoff status for less than 1 year from an adult foster
19 care facility, mental health facility, or covered health facility.

20 (c) The individual can provide evidence acceptable to the
21 relevant licensing or regulatory department that he or she has been
22 a resident of this state for the immediately preceding 12-month
23 period.

24 (12) As a condition of continued employment, each employee or
25 independent contractor shall do both of the following:

26 (a) Agree in writing to report to the adult foster care
27 facility or staffing agency immediately upon being arraigned on 1

1 or more of the criminal offenses listed in subsection (1)(a) to
2 (g), upon being convicted of 1 or more of the criminal offenses
3 listed in subsection (1)(a) to (g), upon becoming the subject of an
4 order or disposition described under subsection (1)(h), and upon
5 becoming the subject of a substantiated finding described under
6 subsection (1)(i). Reporting of an arraignment under this
7 subdivision is not cause for termination or denial of employment.

8 (b) If a set of fingerprints is not already on file with the
9 department of state police, provide the department of state police
10 with a set of fingerprints.

11 (13) In addition to sanctions set forth in this act, a
12 licensee, owner, administrator, or operator of an adult foster care
13 facility or staffing agency who knowingly and willfully fails to
14 conduct the criminal history checks as required under this section
15 is guilty of a misdemeanor punishable by imprisonment for not more
16 than 1 year or a fine of not more than \$5,000.00, or both.

17 (14) In collaboration with the department of state police, the
18 department of technology, management, and budget shall establish
19 and maintain an automated fingerprint identification system
20 database that would allow the department of state police to store
21 and maintain all fingerprints submitted under this section and
22 would provide for an automatic notification at the time a
23 subsequent criminal arrest fingerprint card submitted into the
24 system matches a set of fingerprints previously submitted under
25 this section. Upon such notification, the department of state
26 police shall immediately notify the department and the department
27 shall immediately contact each respective adult foster care

1 facility or staffing agency with which that individual is
2 associated. Information in the database established under this
3 subsection is confidential, is not subject to disclosure under the
4 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
5 shall not be disclosed to any person except for purposes of this
6 act or for law enforcement purposes.

7 (15) If an individual independently contracts with an adult
8 foster care facility, subsections (1) and (2) do not apply if the
9 individual is not under the adult foster care facility's control
10 and the contractual work performed by the individual is not
11 directly related to the clinical, health care, or personal services
12 delivered by the adult foster care facility or if the individual's
13 duties are not performed on an ongoing basis with direct access to
14 residents. This exception includes, but is not limited to, an
15 individual who independently contracts with the adult foster care
16 facility to provide utility, maintenance, construction, or
17 communication services.

18 (16) The department shall maintain an electronic web-based
19 system to assist the adult foster care facilities and staffing
20 agencies required to check relevant registries and conduct criminal
21 history checks of its employees and independent contractors and to
22 provide for an automated notice to the adult foster care facilities
23 and staffing agencies for the individuals entered in the system
24 who, since the initial criminal history check, have been convicted
25 of a disqualifying offense or have been the subject of a
26 substantiated finding of abuse, neglect, or misappropriation of
27 property. The department may charge a staffing agency a 1-time set-

1 up fee of up to \$100.00 for access to the electronic web-based
2 system under this section.

3

4 (17) An adult foster care facility, staffing agency, or a
5 prospective employee covered under this section may not be charged
6 for the cost of a criminal history check required under this act.

7 (18) As used in this section:

8 (A) "ABUSE CLASS I", "ABUSE CLASS II", "NEGLECT CLASS I", AND
9 "NEGLECT CLASS II", MEAN THOSE TERMS AS DEFINED IN R 330.7001 OF
10 THE MICHIGAN ADMINISTRATIVE CODE.

11 (B) ~~(a)~~—"Convicted" means either of the following:

12 (i) For a crime that is not a relevant crime, a final
13 conviction, the payment of a fine, a plea of guilty or nolo
14 contendere if accepted by the court, or a finding of guilt for a
15 criminal law violation or a juvenile adjudication or disposition by
16 the juvenile division of probate court or family division of
17 circuit court for a violation that if committed by an adult would
18 be a crime.

19 (ii) For a relevant crime described under 42 USC 1320a-7(a),
20 convicted means that term as defined in 42 USC 1320a-7.

21 (C) ~~(b)~~—"Covered health facility" means a nursing home, county
22 medical care facility, hospice, hospital that provides swing bed
23 services, home for the aged, or home health agency licensed under
24 article 17 of the public health code, 1978 PA 368, MCL 333.20101 to
25 333.22260.

26 (D) ~~(c)~~—"Criminal history check conducted in compliance with
27 this section" includes a criminal history check conducted under

1 this section, under section 134a of the mental health code, 1974 PA
2 258, MCL 330.1134a, or under section 20173a of the public health
3 code, 1978 PA 368, MCL 333.20173a.

4 (E) ~~(d)~~—"Direct access" means access to a resident or
5 resident's property, financial information, medical records,
6 treatment information, or any other identifying information.

7 (F) ~~(e)~~—"Home health agency" means that term as defined in
8 section 20173a of the public health code, 1978 PA 368, MCL
9 333.20173a.

10 (G) ~~(f)~~—"Independent contract" means a contract entered into
11 by an adult foster care facility with an individual who provides
12 the contracted services independently or a contract entered into by
13 an adult foster care facility with a staffing agency that complies
14 with the requirements of this section to provide the contracted
15 services to the adult foster care facility on behalf of the
16 staffing agency.

17 (H) ~~(g)~~—"Mental health facility" means a psychiatric facility
18 or intermediate care facility for people with mental retardation
19 under the mental health code, 1974 PA 258, MCL 330.1001 to
20 330.2106.

21 (I) ~~(h)~~—"Staffing agency" means an entity that recruits
22 candidates and provides temporary and permanent qualified staffing
23 for adult foster care facilities, including independent
24 contractors.

25 ~~—(i) "Title XIX" means title XIX of the social security act, 42~~
26 ~~USC 1396 to 1396w-5.~~

27 (j) "Under the adult foster care facility's control" means an

1 individual employed by or under independent contract with an adult
2 foster care facility for whom the adult foster care facility does
3 both of the following:

4 (i) Determines whether the individual who has access to
5 residents may provide care, treatment, or other similar support
6 service functions to residents served by the adult foster care
7 facility.

8 (ii) Directs or oversees 1 or more of the following:

9 (A) The policy or procedures the individual must follow in
10 performing his or her duties.

11 (B) The tasks performed by the individual.

12 (C) The individual's work schedule.

13 (D) The supervision or evaluation of the individual's work or
14 job performance, including imposing discipline or granting
15 performance awards.

16 (E) The compensation the individual receives for performing
17 his or her duties.

18 (F) The conditions under which the individual performs his or
19 her duties.

20 Enacting section 1. This amendatory act does not take effect
21 unless all of the following bills of the 96th Legislature are
22 enacted into law:

23 (a) Senate Bill No. ____ or House Bill No. 4598 (request no.
24 01251'11).

25 (b) Senate Bill No. ____ or House Bill No. 4599 (request no.
26 01252'11).